IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

-

WRIT PETITION NO : 8110 of 2005

Between:

V.V.V. Satyanarayana Murthy, S/o. Late Sri V. Venkata Raju
R.V. Nagar, Rajahmundry, East Godavari District.

..... PETITIONER

AND

1 Deputy Director of Mines & Geology, Kakinada,
East Godavari District.
2 Assistant Director of Mines & Geology, Eluru,
West Godavari District.
3 Director of Mines & Geology, Government of Andhra Pradesh,
Burgula Ramakrishna Rao Building, Near Tank Bund,

Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an order or direction or Writ more appropriately a Writ of Mandamus to declare the inaction on the part of the Respondents in executing the lease deed in favour of the petitioner under Rule 13 of A.P. Minor Mineral Concession Rules, 1966 as per the grant orders issued by the 1st Respondent vide his Procs. No. 5262/Q2/2004 dt. 21-12-2004 basing on the alleged Vigilance Report and alleged illegal quarrying as illegal which is nothing to do with the grant orders and further direct the 3rd Respondent to extend the period under Rule 13 of A.P. Minor Mineral Concession Rules, 1966 and also direct the 2nd Respondent to execute the lease deed in favour of the petitioner as per the said grant orders forthwith.

Counsel for the Petitioner: MR. K.RAJANNA

Counsel for Respondents: GP FOR MINES AND GEOLOGY

The Court made the following:

-

-

-

-

-

ORDER:

-

This writ petition has been filed by one V.V.V. Satyanarayana Murthy with a prayer to issue an order or direction more appropriately a Writ of Mandamus declaring the inaction of the respondents in executing the lease deed in favour of the petitioner under Rule 13 of A.P. Minor Mineral Concession Rules, 1966 (for short, 'the Rules') as per the grant orders issued by the Deputy Director of Mines and Geology, Kakinada, East Godavari District-first respondent vide his proceedings No.5262/Q2/2004, dated 21-12-2004, as illegal.

2. The case of the petitioner, as could be seen from the affidavit filed in support of the writ petition is :- The writ petitioner applied for grant of quarry lease for road metal in Survey No.90 of Kondagudem Village, Devarapalli Mandal, West Godavari District on 17-12-2003. The Assistant Director of Mines and Geology, Eluru, West Godavari District-second respondent forwarded the application to the Deputy Director of Mines and Geology, Kakinada, East Godavari District-first respondent. The Royalty Inspector from the office of the second respondent inspected the proposed leased area on 04-12-2004 and submitted report. Basing on the inspection report, the second respondent forwarded the entire format, as required under the Rules, to the first respondent. The Deputy Director of Mines and Geology, Kakinada-first respondent granted quarry lease in favour of the petitioner over an extent of one hectare in Survey No.90 of Kondagudem Village, Devarapalli Mandal, West Godavari District by demarcating the area in the sketch plan vide his Proc.No.5262/62/2004 dated
21-12-2004. The petitioner furnished security deposit in pursuance of the grant orders passed by the Assistant Director of Mines and Geology, Eluru-second respondent. While so the 2nd respondent issued show cause notice to the petitioner alleging illegal quarrying in the applied leased area. The petitioner submitted explanation to the show cause notice denying the same. Since the lease deed has not been executed by the authorities, the petitioner has filed this writ petition.

3. Counter affidavit has been filed by the second respondent. One K.Venkata Rao has sworn to the counter affidavit. It is stated in the counter affidavit that the writ petitioner has resorted to some illegal quarrying and therefore, a show cause notice was issued to him, which culminated into final orders and thus, the petitioner is not entitled for the relief as claimed by him in the writ petition.

4. Heard the learned Counsel appearing for the petitioner and the learned Government Pleader for Mines and Geology appearing on behalf of respondents 1 to 3.

5. Learned Counsel appearing for the petitioner submits that the show cause notice has no relevance so far as the execution of the lease deed in favour of the petitioner and thus, the writ petitioner is entitled to the relief claimed in the writ petition.

6. Learned Government Pleader for Mines and Geology appearing on behalf of respondents 1 to 3 submits that the petitioner, after issue of grant orders, has not paid the advance dead rent of Rs.25,000/- in the shape of a Challan and also security deposit of Rs.25,000/- in the shape of Postal Savings Pass Book and stamp duty worth of Rs.2,500/- and lease deed forms, photos and sketches for execution of lease deed. I deem it appropriate to refer the relevant portion of the counter affidavit, which is thus :-

> " I submit that the completion of the survey and inspection, this office has submitted the proposals for grant of quarry lease vide letter No.3302/Q1/2003, dated 21-07-2004 to the Deputy Director of Mines & Geology, Kakinada. After receipt of the proposals for grant of quarry lease from the Asst. Director of Mines & Geology, Eluru, the Deputy Director of Mines & Geology, Kakinada has issued a Memo No.5262/Q2/2004, dated 2-11-2004 and 2-12-2004 to the Asst. Director of Mines and Geology, Eluru to resubmit the proposals after rectifying the lapses and dues along with latest Inspection report by Royalty Inspector. Accordingly the petitioner herein has paid all the dues pending on the earlier quarry lease held by him. Further the Royalty Inspector has inspected the area on 4-12-2004 and reported that, the said area applied is non-working and there are no old pits and new opened pits in the applied area. Further, the office has resubmitted the proposals for grant to the Deputy Director of Mines & Geology, Kakinada vide Letter 3302/Q1/2003, dated 18-12-2004. The Deputy Director of Mines & Geology, Kakinada has granted quarry lease for Road Metal over an extent of 1.000 Hct. In S.No.90 of Kondagudem village, Devarapalli Mandal, West Godavari District for a period of 10 years in the subject area vide proceedings No.5262/Q2/2004, dated 21-12-2004. After issue of grant orders, this office has requested the petitioner to pay the Advance Dead rent for Rs.25,000/- in

the shape of Challana, Security Deposit Rs.25,000/- in shape of Postal Savings Pass Book and stamp duty worth of Rs.2,500/- and lease deed forms, Photos and sketches vide this office letter 3302/Q1/2003, dated 22-12-2004 and again on 28-12-2004 for execution of lease deed. But the petitioner has neither paid the required amount nor submitted any documents to this office till today for the execution of lease deed."

7. Admittedly, the writ petitioner has not paid advance dead rent of Rs.25,000/-. Therefore, the respondents cannot be found fault for not executing the lease deed. In such a situation, the question of issuing direction to the respondents to execute a lease deed in favour of the petitioner does not arise.

8. Accordingly, the writ petition is dismissed.

_____

B.SESHASAYANA REDDY, J

04th July, 2005.

Ak

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Deputy Director of Mines & Geology, Kakinada,

East Godavari District.

2. The Assistant Director of Mines & Geology, Eluru,

West Godavari District.

3. The Director of Mines & Geology, Government of Andhra Pradesh, Burgula Ramakrishna Rao Building, Near Tank Bund, Hyderabad.

4. Two CCs to the Government Pleader for Mines and Geology, High Court Buildings, Hyderabad (O.U.T).

5. Two CD copies.